

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOUGLAS E. GALLAGHER,

Plaintiff,

v.

BETTE PINE, *et al.*,

Defendants.

CASE NO. C05-684MJP-MJB

ORDER DIRECTING SUPPLEMENTAL
RESPONSE FROM DEFENDANTS

This is a civil rights action brought under 42 U.S.C. § 1983. Currently pending before the Court is plaintiff's motion for preliminary injunctive relief. Plaintiff seeks, by way of the instant motion, an order directing that he be scheduled for surgery to repair an inguinal hernia. In his reply brief in support of his motion, plaintiff raises for the first time an issue concerning pain associated with the manner in which he is restrained while being transported to court for his state court criminal proceedings. Defendants, in their surreply, object to the fact that plaintiff raised this issue for the first time in his reply brief and thus deprived them of the opportunity to respond to the issue in a meaningful way.

The court transportation issue is one which this Court believes warrants a response from defendants as both plaintiff and his trial counsel have apparently attempted to resolve this issue with the King County Correctional Facility without success. Moreover, it is an issue which is

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1 closely related to whether defendants are, in fact, taking appropriate steps to manage the pain
2 associated with plaintiff's hernia as they contend throughout their briefing.

3 Accordingly, the Court does hereby ORDER as follows:

4 (1) Defendants shall file and serve a supplemental response to plaintiff's motion for
5 preliminary injunctive relief, addressing the court transportation issues raised by plaintiff in his
6 reply brief, not later than *November 14, 2005*

7 (2) Plaintiff may file and serve a supplemental reply brief in support of his motion not
8 later than *November 17, 2005*.

9 (3) Plaintiff's motion for preliminary injunctive relief (Dkt. No. 39) is RE-NOTED for
10 consideration on *November 18, 2005*.

11 (4) Plaintiff's pending motion for physical examination (Dkt. No. 37) is STRICKEN
12 from the Court's calendar. A review of plaintiff's motion for preliminary injunctive relief, and his
13 supporting materials, suggest that the motion for physical examination is now moot. Plaintiff may
14 renew this motion at a later date if he finds it necessary and appropriate to do so.

15 DATED this 7th day of November, 2005.

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19 MONICA J. BENTON
United States Magistrate Judge
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